



INLAND APPEAL FORM

SAN LUIS OBISPO COUNTY DEPARTMENT OF PLANNING AND BUILDING

976 OSOS STREET • ROOM 200 • SAN LUIS OBISPO • CALIFORNIA 93408 • (805) 781-5600

Promoting the Wise Use of Land • Helping to Build Great Communities

Please Note: An appeal should be filed by an aggrieved person or the applicant at each stage in the process if they are still unsatisfied by the last action.

PROJECT INFORMATION

Name: P6 E / PortnoffFile Number: DRC 2014 - 00006

Type of permit being appealed:

- ☐ Plot Plan ☐ Site Plan ☐ Minor Use Permit ☒ Development Plan/Conditional Use Permit
☐ Variance ☐ Land Division ☐ Lot Line Adjustment ☐ Other: _____

The decision was made by:

- ☐ Planning Director (Staff) ☐ Building Official ☐ Planning Department Hearing Officer
☐ Subdivision Review Board ☒ Planning Commission ☐ Other: _____

Date the application was acted on: 10/23/2014

The decision is appealed to:

- ☐ Board of Construction Appeals ☐ Board of Handicapped Access
☒ Planning Commission ☐ Board of Supervisors

BASIS FOR APPEAL

State the basis of the appeal. Clearly state the reasons for the appeal. In the case of a Construction Code Appeal, note specific code name and sections disputed). (Attach additional sheets if necessary)

Insufficient data provided by applicant regarding coverage area, no compelling argument for siting at Portnoff vs. other acceptable locations.
Please see attached document.

List any conditions that are being appealed and give reasons why you think it should be modified or removed.

Condition Number 17/18

Reason for appeal (attach additional sheets if necessary)

1. No data provided as to cumulative noise effect in varying conditions (static measurement at 10 AM at 80°); no request nor investigation of current facilities by applicant or county in order to mitigate existing noise. Please see attached.

APPELLANT INFORMATION

Print name: Betsy BrownAddress: 2395 Our Hill Lane, Paso Robles, CA 93446Phone Number (daytime): 805 - 674 - 3570

We have completed this form accurately and declare all statements made here are true.

Signature: Betsy BrownDate: 11/4/2014Signature: Cheryl ArmstrongAddress: 2382 Mt. Springs RD Paso Robles Calif 93446

OFFICE USE ONLY

Date Received: 11/5/2014Amount Paid: \$850.00By: [Signature]Receipt No. (if applicable): 0889

INLAND APPEAL FORM
 SAN LUIS OBISPO COUNTY PLANNING & BUILDING
 SLOPLANNING.ORG

PAGE 2 OF 2
 JULY 1, 2010
 PLANNING@CO.SLO.CA.US

DEPT
 PLANNING/BUILDING
 SLO COUNTY

Attachment 2

October 31, 2014

San Luis Obispo County Planning Commission
c/o Planning & Building Department
976 Osos Street, Room 300
San Luis Obispo, CA 93408

Attn: Ramona Hedges, Planning Commission Secretary

Subject: **APPEAL** of Planning Commission Approval
DRC2014-00006 (Portnoff/PG&E)

Honorable Members of the Commission:

We hereby **APPEAL** the decision of the San Luis Obispo County Planning Commission who, on October 23, 2014, approved a Conditional Use Permit filed by Portnoff Revocable Trust and PG&E for construction of a 100 foot tall lattice communication tower to support six (6) dish antennas (3-10 feet in diameter) and two (2) 20 foot tall whip antennas, a 15 foot x 15 foot concrete slab and fuel cell storage on a 30 square-foot slab. We will address the addition and modification of conditions to the project as well as inconsistencies to data presented by the applicant. Our concerns are also focused on other items in our letter of October 21, 2014 that we believe merit consideration and were ostensibly overlooked by the Commission or the project applicant.

In the Planning Commission approval of this Permit, two conditions, #17 and #18, were modified and added, respectively, to comply with the County's 45 LEQ noise standard. "The project is conditioned to require air conditioning equipment that operates at no more than 52 decibels, measured at a 50 foot distance" purportedly because of the rural ambient noise levels. In our original letter to the Commission, we stated that the noise can already be heard beyond (the) 600 feet to the south and down an adjacent hillside. In addition, in the summer when the windows are open, the prevailing evening breeze blows from the northwest to the south east, carrying all sounds from the towers in a south/southeasterly direction where additional homes are located. In the summer, the homeowners at the 600 foot distance (from the towers) abandon their attached open deck because the resounding "din" of the air conditioning makes normal conversation very difficult. Therefore, the noise from the existing facility is "already audible from adjacent parcels." (Condition #17)

Condition #18 states that by September 1, 2015, the applicant shall submit a noise study taken during the evening hours when the air conditioning units are operating. This presumes, of course, that the structure will already be constructed and all appurtenant structures located on the 100 foot tower will already be in place. Is it reasonable to assume the County would require stringent and costly measures by the applicant to ameliorate the noise level at that point? And yet, in the Exhibit A of the Conditional Use

Permit under the subsection **Conditions to be completed prior to final building inspection**, the following sentence states: “#9. *The facility shall not be operated until all conditions of approval have been met...*”

Although as homeowners we appreciate the dialogue regarding the noise levels, we wish to re-address other significant concerns that were outlined in our letter of October 21, 2014, and were not comprehensively explored by the Commission, County Staff or the Applicant, especially given the particular scope of the project.

1. **Demonstrated Demand**: Although the Federal Telecommunications Act of 1996 was designed “to promote competition and reduce regulation (and) encourage the rapid deployment of new telecommunications technologies,” local governments are not required to accept siting of new telecommunications facilities as long as they do not “unreasonably discriminate.”

In its presentation, PG&E did not specifically discuss why the any of the alternate sites proximately located to Portnoff were **not** satisfactory, other than explanation of the need to extend coverage due FCC requirements. Nor was any examination of sites or corroboration for this decision presented to the Commission. In fact, Commissioner Irving asked the PG&E representative if a coverage map had been provided to County Staff with the application, especially since the FCC had requested that PG&E extend its coverage area. Commissioner Topping stated such a map would provide “a description of benefit and purpose.” County Staff answered that the PUC does require this of PG&E, but did not feel it was necessary for County’s “analysis of the project” and referenced PG&E’s “substantial investment” in the project. However, no such map had been provided in this instance, even though PG&E stated that they had “extensively researched” this site. When pressed for more specific detail regarding coverage, a PG&E representative (and manager of the ISPS Communication Department) replied that the coverage was greater, but he did not have at hand an actual percentage for comparison; that is, he said he would need to consult a map for that information. The representative allowed as how siting at Portnoff would “almost” reach the Lake Nacimiento area and that another repeater might be considered to fill in that gap. It was reiterated by Commissioner Campbell that there is already an existing PG&E tower in San Miguel, but no evidence was presented by PG&E of impedance or elevation issues related to communication from this site, if any.

Since the intent of PG&E behind this project was to service some of the more outlying areas west of Paso Robles and towards Nacimiento, two of the following sites are even closer to that area (than Portnoff). All of these sites are included in the County’s cell log roster:

- a. Lime Mountain Site: 16624 Chimney Rock Road, Paso Robles
(20 miles SW of Heritage Ranch)
- b. Taylor/Rieck Site: 616 Bee Rock Road, Nacimiento
- c. Thornton Site: 1512 Peachy Canyon Road, Paso Robles
- d. Miller Site: 5810 Santa Rita Ranch Road, Templeton

e. Lojacono Site: 3415 West Highway 46, Templeton

2. **Collocation or no location?** Because of the vague boundaries surrounding the process and legislation mandated as a result of the Middle Class Tax Relief and Job Creation Act of 2012, the definition of "collocation" is generally referred to as a set of terms loosely based on the amount of substantive physical change upon any **one** tower. In the case of the PG&E tower, however, the proposal does not seek a modification of any existing tower structure, but an entirely new tower, antennas and concrete pad.

The issue of collocation was one of the inconsistencies noted in the testimony of the one of the PGE representatives at the hearing. On its website at www.pge.com, PG&E touts itself as "an industry leader in providing cell site collocation opportunities and related services for wireless carriers." It goes on to state, "Additionally, wireless carriers sometimes benefit from a streamlined zoning approval process when locating on PG&E structures as many zoning jurisdictions prefer that cell sites be located on existing structures." However, at the hearing, the PG&E representative stated that the utility does not permit private wireless carriers to collocate on its towers. When pressed by Commissioner Irving to elucidate upon the reasons for this practice, another representative stated that it "was just typical of PG&E. It's how we've conducted business." Inasmuch as it would have been preferable not to construct yet another tower, PG&E was evidently unable to satisfactorily collocate on **any** of the existing **six** towers at the Portnoff site. Unfortunately, feasibility studies conducted regarding collocation were not presented to the Commission, nor were they requested.

2. **What is Visual Expectation?** It was asserted by County staff early on in the hearing that the proposed tower would be "consistent with the visual expectations" of the site and "appear(s) subordinate to the landscape." The photo simulation as presented by the County communicated a massive steel structure far and away subordinating any large oak tree gracing that ridge; in fact, the concept was so disturbing and so out of proportion that the visual impact will surely extend even further from the site. What is the visual expectation for the site? Will the County continue to allow the proliferation of towers so that all neighboring views are irrevocably diminished? Case in point: during discussion regarding tower sites in the area, Commissioner Irving supported the notion of putting "all the ugliness in one place." Furthermore, no discussion of nighttime lighting was discussed or mentioned, either on the towers or accessory building structures.
3. **Wildfire and Access** Although the Commission addressed wildfire concerns, there was no clear consensus pointing to the towers as an ignition source. We are aware, however, of the age of some of the units at the site and that there always exists the possibility of equipment failure. Even maintenance of the site poses possible hazards. Adding to that is another layer of concern because of the remote location. On July 30, 2013, a large cell tower in San Ramon, California collapsed when support wires were cut, allegedly by vandals. The tower was located on a ridge, primarily accessible by hikers or support crews, similar to Portnoff. No additional security measures were discussed by PG&E although it is certain that risk at the site is not diminished.

Commissioner Irving addressed the issue of wildfire at some length. Because he is familiar with the topography surrounding the site, he emphasized the importance of more than a singular exit off the ridge and out of the neighborhood, especially when there are fire trucks requiring immediate access up narrow roads that are the only means of descent. Up to this point, there has been no implementation or substantive discussion regarding possible access of the impacted neighborhood(s) to Adelaida Road. Unfortunately, this topic was set aside in the Hearing without further dialogue.

Note: Within this exchange there was brief conversation between Commissioner Irving and PG&E regarding the lease between the Portnoff Trust and PG&E. The Commissioner asked if the lease for the project had been finalized and PG&E responded affirmatively. Commissioner Irving then entertained the idea of conditioning the project to include emergency access through Portnoff, but the PG&E representative stated he "personally was not authorized" to make such a concession or decision. The disquieting notion that a lease had been negotiated and signed **prior** to the County Hearing indicated presumptive approval of the request by PG&E; this issue was not examined further by the Commission.

4. **Residential Districts and Land Use** Existing ordinances informing tower siting and review in the County appear fairly ambiguous and subject to interpretation. The lack of distinct guidelines have been a source of frustration and concern for the residential neighborhood surrounding the site. This is why we are appealing Commission's decision today. We do not want to burden the applicant with unnecessary conditions; conversely we do not want our significant and notable concerns to be discounted due to Commission's time constraints or scope of the project as proposed by the applicant.

Portnoff Hill is the cumulative total of decisions made over the years, initially when the technology was not near as massive, as contradictory and yes, dangerous. As pointed out by County Staff, some facilities on the site were built without benefit of the certain scrutiny they would receive today. Rural character and property values notwithstanding, city and county representatives must carefully and critically assess the present and future impact of today's planning decisions. To that end, we respectfully request that the Commission reverse their decision to allow PG&E's construction at the Portnoff site.

Sincerely,



Betsy Brown